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6 UNITED STATES BANKRUPTCY COURT
7 WESTERN DISTRICT OF WASHINGTON AT SEATTLE

8 In re:)	IN PROCEEDINGS UNDER CH. 13
9 HELEN JUDITH ROWE TAYLOR,)	
10 Debtor.)	Case No.: 05 25299
11)	
12 HELEN JUDITH ROWE TAYLOR,)	
13)	ADVERSARY NO.: 07 1152
14 PLAINTIFF)	
15)	RESPONSE TO MOTION FOR
16 V.)	SUMMARY JUDGEMENT
17 SALLIE MAE GUARANTEE, U.S.)	
DEPARTMENT OF EDUCATION.)	
DEFENDANT(S).)	

18 Educational Credit Management Corporation (ECMC) asserts that this court does not
19 have jurisdiction to determine the dischargeability of the debtor's student loans. This court has
20 already ruled on the issue of the timing of filing an adversary seeking discharge of student loan
21 debt. *In re Taylor*, 223 B.R. 747 (9th Circ. BAP 1998). Under Federal Rule of Bankruptcy
22 4007(b) a 523(a)(8) action can be brought at any time. *Id.* at 752.

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24 ECMC asserts that the debtor cannot prove that she meets the requirements for undue
25 hardship under the Brunner test. The court has all the information it needs in the debtor's

RESPONSE TO MOTION FOR
SUMMARY JUDGMENT - 1

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1 bankruptcy schedules to conclude that there is a genuine issue of fact. The debtor lists nearly
2 \$155,000.00 in outstanding student loan debt. Her disposable income isn't even \$750.00 per
3 month. If she were to allocate her entire disposable income towards the debt, without calculating
4 any interest, it would take over 17 years to repay the debt. If the debt accrues interest at 5% it
5 will take nearly 40 years to repay the debt. To require the debtor to repay the debt will cause her
6 an undue financial hardship. In order for there to be no issue of undue financial hardship it
7 seems ECMC would have to be willing to accept \$750.00 per month or less over a reasonable
8 repayment period. Unless ECMC is willing to accept an affordable payment over a reasonable
9 period of time repayment of the debt will cause the debtor an undue hardship.

10
11 WHEREFORE ECMC'S motion for summary judgment should be denied.

12
13
14 Dated this 7th Day of June, 2007.

/s/ Ken Schneider
Ken Schneider, WSBA #22410
Attorney for the plaintiff